

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA :
v. : Criminal No. 05-CR-10081-
: : MLW
ALEX S. NEWMAN, : VIOLATIONS:
Defendant : 18 U.S.C. §1343 - Wire Fraud
: 26 U.S.C. §7201 - Tax Evasion

INDICTMENT

The Grand Jury charges that at all times relevant to the
Indictment:

INTRODUCTION

1. Boston Fitness Management Company ("Boston Fitness"), a Massachusetts entity, owned a consortium of health club facilities ("the health clubs") in Massachusetts and Maine. Boston Fitness maintained a separate bank account for each health club ("the clubs' accounts") at U.S. Trust Company. The clubs' accounts were transferred to Citizens Bank when U.S. Trust Company was purchased by Citizens Bank in approximately February 2000. (To simplify matters, U.S. Trust Co. and Citizens Bank are collectively referred to in this Indictment as "Citizens Bank.").

2. Boston Fitness' members paid their monthly membership dues by authorizing Boston Fitness to: (a) transfer funds from their personal bank accounts to one of clubs' accounts on a monthly basis, or (b) submit monthly charges to their personal credit card accounts.

3. From in and around July 1998, to in and around January 2002, the defendant, **ALEX S. NEWMAN** ("**NEWMAN**"), worked as Boston Fitness' systems manager in its corporate office in Wakefield, Massachusetts. A lawyer, **NEWMAN** was also Boston Fitness' in-house counsel.

4. While employed by Boston Fitness, **NEWMAN** was permitted to make deposits to and withdrawals from bank accounts that were established for each club at Citizens Bank (collectively, "the clubs' accounts"). To accomplish the withdrawal of money from the clubs' bank accounts, **NEWMAN** caused information related to each withdrawal transaction to be communicated in interstate commerce to, among other entities, Citizens Bank, the Federal Reserve Bank and a credit transaction clearinghouse that was located in Omaha, Nebraska.

THE SCHEME TO DEFRAUD

COUNTS 1 - 9

WIRE FRAUD (18 U.S.C. § 1343)

The Grand Jury further charges:

5. Paragraphs 1 - 4 of this Indictment are incorporated herein by reference.

6. It was part of the scheme and artifice that from in and around July 1998, to in and around January 2001, without permission or authority from Boston Fitness to do so, on approximately four hundred and twenty-six (426) separate occasions, **NEWMAN** used and caused interstate wire communications, as described in paragraph 4 of this Indictment, to transfer approximately one hundred and twenty five-thousand eighty dollars (\$125,080.00) from clubs' accounts to his personal bank accounts.

7. It was further part of the scheme and artifice that from in and around July 1998, to in and around January 2002, without permission or authority from Boston Fitness to do so, **NEWMAN** used the interstate wire communications described in paragraph 4 of this Indictment to cause approximately five hundred and fifty-nine (559) withdrawals, totaling one hundred fifty-five thousand seven hundred dollars and sixty-eight dollars (\$155,768.00), to be made from the clubs' accounts for the purpose of posting credits to his personal credit card accounts.

8. On or about the dates set forth below, in the District of Massachusetts and elsewhere, the defendant,

ALEX S. NEWMAN,

devised and intended to devise a scheme and artifice to defraud and to obtain money from Boston Fitness, by means of false and fraudulent pretenses, representations and promises, transmitted and caused to be transmitted by means of wire communication in interstate commerce writings, signs, signals and sounds for the purpose of executing the scheme and artifice, as set forth below:

<u>COUNT</u>	<u>DATE OF WITHDRAWAL</u>	<u>APPROXIMATE AMOUNT</u>	<u>DEPOSIT TRANSACTION</u>
1	08/31/00	\$168.95	Deposit to Sovereign Bank Account No. XXXXXXX0240
2	10/05/00	\$482.00	Deposit to Fleet Bank Account No. XXX-X6453
3	02/02/00	\$471.00	Deposit to Fleet Bank Account No. XXXX6604
4	01/03/01	\$457.00	Credit Posted to Citibank Credit Card Account. No. XXXX-XXXX-XXXX-3038
5	01/29/01	\$225.90	Credit Posted to Citibank Credit Card Account. No. XXXX-XXXX-XXXX-2294
6	05/03/99	\$456.00	Credit Posted to Citibank Credit Card Account No. XXXX-XXXX-XXXX-7410

<u>COUNT</u>	<u>DATE OF WITHDRAWAL</u>	<u>APPROXIMATE AMOUNT</u>	<u>DEPOSIT TRANSACTION</u>
7	09/05/00	\$302.00	Credit Posted to JP Morgan Credit Card Account No. XXXX-XXXX-XXXX-4412
8	06/02/00	\$471.00	Credit Posted to JP First USA Credit Card Account No. XXXX-XXXX-XXXX-4185
9	07/06/99	\$456.00	Credit Posted to JP Fleet Bank Credit Card Account No. XXXX-XXXX-XXXX-1293

All in violation of Title 18, United States Code, Sections 1343 and 2.

COUNT 10

TAX EVASION (26 U.S.C. § 7201)

The Grand Jury further charges:

9. The allegations of paragraphs 1 through 4 and 6 through 8, are re-alleged and incorporated as if set forth in full herein.

10. On or about March 21, 2000, in the District of Massachusetts and elsewhere, the defendant,

ALEX S. NEWMAN,

did willfully attempt to evade and defeat a large part of the income tax due and owing by him to the United States of America for calendar year 1999 by filing and causing to be filed with the Director, Internal Revenue Service Center, at Andover, Massachusetts, a false and fraudulent U.S. Individual Income Tax Return, Form 1040, wherein he stated that his taxable income for calendar year 1999, was approximately \$28,926.00, and the amount of tax due and owing thereon was approximately \$4,752.00, whereas, **NEWMAN** then and there well knew and believed, his taxable income for calendar year 1999 was substantially in excess of that stated and that upon said additional taxable income substantial additional taxes were due and owing to the United States of America.

All in violation of Title 26, United States Code, Section 7201.

COUNT 11

TAX EVASION (26 U.S.C. § 7201)

The Grand Jury further charges:

11. The allegations of paragraphs 1 through 4 and 6 through 8, are re-alleged and incorporated as if set forth in full herein.

12. On or about May 15, 2001, in the District of Massachusetts and elsewhere, the defendant,

ALEX S. NEWMAN,

did willfully attempt to evade and defeat income tax due and owing by him to the United States for the calendar year 2000 by: (a) engaging in affirmative acts to conceal assets and hide income, and (b) filing and causing to be filed with the Director, Internal Revenue Service Center, Atlanta, Georgia, a false and fraudulent U.S. Individual Income Tax Return, Form 1040, wherein he stated that his taxable income for calendar year 2000, was approximately \$48,220.00, and the amount of tax due and owing thereon was approximately \$10,091.00, whereas, **NEWMAN** then and there well knew and believed, his taxable income for calendar year 2000 was substantially in excess of that stated and that upon said additional taxable income substantial additional taxes were due and owing to the United States of America, all in violation of Title 26, United States Code, Section 7201.

A TRUE BILL

Robert Alle
FOREPERSON OF THE GRAND JURY

DATED: March 24, 2005

Robert M. Kinsella

Robert M. Kinsella
Special Assistant United States Attorney

DISTRICT OF MASSACHUSETTS, MARCH 24, 2005, Returned into the District Court by the Grand Jurors and filed.

Valerie Cusick
Deputy Clerk

2:20 PM

3/24/05

Criminal Case Cover Sheet**U.S. District Court - District of Massachusetts**Place of Offense: _____ Category No. II Investigating Agency FBICity Wakefield, MA**Related Case Information:**County MiddlesexSuperseding Ind./ Inf. _____ Case No. 05-CR-10081-MLW

Same Defendant _____ New Defendant _____

Magistrate Judge Case Number _____

Search Warrant Case Number _____

R 20/R 40 from District of _____

Defendant Information:Defendant Name Alex S. Newman Juvenile Yes No

Alias Name _____

Address 4021 Peoria Ave., Simi Valley, CA 93063Birth date (Year only): 70 SSN (last 4 #): 5156 Sex M Race: White Nationality: _____Defense Counsel if known: Juliane Balliro Address: Perkins, Smith & CohenBar Number: 1 Beacon St., Boston, MA 02108**U.S. Attorney Information:**AUSA Robert M. Kinsella (Dist. of NH) Bar Number if applicable MA BBO No. 273315Interpreter: Yes No List language and/or dialect: _____Matter to be SEALED: Yes No Warrant Requested Regular Process In Custody**Location Status:**

Arrest Date: _____

 Already in Federal Custody as _____ in _____ Already in State Custody _____ Serving Sentence Awaiting Trial On Pretrial Release: Ordered by _____ on _____Charging Document: Complaint Information IndictmentTotal # of Counts: Petty _____ Misdemeanor _____ Felony 3 Counts

Continue on Page 2 for Entry of U.S.C. Citations

 I hereby certify that the case numbers of any prior proceedings before a Magistrate Judge are accurately set forth above.Date: 3/24/05Signature of AUSA: Robert M. Kinsella

District Court Case Number (To be filled in by deputy clerk): _____

Name of Defendant Alex S. Newman

U.S.C. Citations

<u>Index Key/Code</u>	<u>Description of Offense Charged</u>	<u>Count Numbers</u>
Set 1 <u>18 U.S.C. 1343</u>	<u>Wire Fraud</u>	<u>1 through 9</u>
Set 2 <u>26 U.S.C. 7201</u>	<u>Tax Evasion</u>	<u>10 & 11</u>
Set 3 _____	_____	_____
Set 4 _____	_____	_____
Set 5 _____	_____	_____
Set 6 _____	_____	_____
Set 7 _____	_____	_____
Set 8 _____	_____	_____
Set 9 _____	_____	_____
Set 10 _____	_____	_____
Set 11 _____	_____	_____
Set 12 _____	_____	_____
Set 13 _____	_____	_____
Set 14 _____	_____	_____
Set 15 _____	_____	_____

ADDITIONAL INFORMATION: